

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of)	
1996)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	

**COMMENTS OF
THE NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.,
THE NATIONAL RURAL TELECOM ASSOCIATION, AND
THE ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF
SMALL TELECOMMUNICATIONS COMPANIES**

The National Exchange Carrier Association, Inc. (NECA), the National Rural Telecom Association (NRTA), and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) (“the Associations”) submit these joint comments in response to the Commission’s *Further Notices of Proposed Rulemaking* in the above-captioned proceedings.¹

¹ Numbering Resource Optimization, CC Docket No. 99-200, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Telephone Number Portability, CC Docket No. 95-116, *Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116*, 17 FCC Rcd 4784 (2002) (FNPRM).

I. THE COMMISSION SHOULD CONTINUE TO LIMIT THE LNP REQUIREMENT IN THE LARGEST 100 MSAs TO THOSE SWITCHES FOR WHICH ANOTHER CARRIER HAS MADE A SPECIFIC REQUEST FOR NUMBER PORTABILITY.

The Commission seeks comment on whether a reinstatement of the original Local Number Portability (LNP) requirement for all local exchange carriers (LECs) in the largest 100 Metropolitan Statistical Areas (MSAs) is warranted.² The Commission's current rules limit this requirement to those switches in the largest 100 MSAs for which another carrier has made a specific request for the provision of number portability.³ The Commission now suggests that potential benefits to competition and numbering resource optimization may justify restoring the requirement that all local exchange carriers in the top 100 MSAs be LNP capable, regardless of whether they receive a request from a competing carrier.⁴ In the alternative, the Commission also seeks comment on whether certain small carriers should be exempt from the LNP requirement because they are not likely to receive a request for LNP.⁵

The Commission's limitation on the LNP requirement has been in place since 1997. This was intended not only to allow carriers to focus resources on areas where competition was expected to be greatest,⁶ but also to "address the concerns of smaller and rural LECs

² See *FNPRM* at ¶ 8.

³ See 47 C.F.R. § 52.23 (b)(1), "All LECs must provide a long-term database method for number portability in the 100 largest Metropolitan Statistical Areas (MSAs) by December 31, 1998, in accordance with the deployment schedule set forth in the Appendix to this part, in switches for which another carrier has made a specific request for the provision of number portability...."

⁴ See *FNPRM* at ¶ 7-8.

⁵ *Id.*

⁶ *Id.* at ¶ 6.

with end offices within the 100 largest MSAs that they may have to upgrade their networks at significant expense even if no competitors desire portability.”⁷

These concerns are significant. According to recent NECA analysis, there are 291 study areas in the traffic sensitive pool located, either entirely or partially, within the current top 100 MSAs.⁸ In the event the Commission decides to include all MSAs included in the Consolidated Metropolitan Statistical Areas (CSMAs) on its top 100 list,⁹ the number of traffic sensitive pool participant study areas located in these areas grows to 303.

For most of these study areas only a portion of their service areas are located within the top 100 MSAs. In addition, only four study areas have received bona fide requests and currently recover LNP implementation costs through end user charges,¹⁰ indicating that there have been no requests for number portability capability in the vast majority of switches. Requiring LNP implementation in these areas will not stimulate competition, but instead only cause small ILECs to expend funds needlessly.

⁷ See Telephone Number Portability, CC Docket 95-116, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236 (1997) (*Reconsideration Order*) at ¶ 59 responding to Petitions for Reconsideration filed by numerous parties, including NECA and NTCA/OPASTCO.

⁸ This estimate is based on 1997 national wire center boundary file data from Claritas, Inc., 1990 and 1999 U.S. Census Bureau MSA and CMSA boundary files, and Tariff No. 4 data associating switch locations and study area codes. The Commission defines the top 100 MSAs to include “those MSAs listed in the *LNP First Report and Order*, Appendix D used to determine the scope of LNP deployment in 1996, as well as all areas included on any subsequent top 100 MSA list.” See Numbering Resource Optimization, CC Docket No. 99-200, *Third Report and Order and Second Order on Reconsideration in CC Docket No. 99-200*, 17 FCC Rcd 252 (2002) at ¶ 124.

⁹ See *FNPRM* at ¶ 10.

¹⁰ See NECA Tariff F.C.C. No. 5, section 17.4.4(P).

One of the benefits the Commission espouses of requiring all LECs in the top 100 MSAs to be LNP capable is that it can “enable carriers to alleviate number shortages by implementing code sharing and other mechanisms to transfer unused numbers among carriers that need numbering resources.”¹¹ The Commission must recognize, however, that LNP was never intended to be used as a vehicle to conserve numbering resources; it was intended solely to facilitate competition. Indeed, the legislative history of the 1996 Act demonstrates that the obligations imposed on all LECs in Section 251(b) were not intended to apply to any LEC, let alone a small rural LEC, until a LEC received a request to provide the particular service or access. The Manager’s Report states:

The conferees note that the duties imposed under new section 251(b) make sense only in the context of a specific request from another telecommunications carrier or any other person who actually seeks to connect with or provide services using the LEC’s network.¹²

Therefore, the Associations recommend that the Commission continue to limit the LNP requirement in the largest 100 MSAs to those switches for which another carrier has made a specific request for number portability. Instead of revising its rules to mandate LNP implementation, the Commission should continue to allow the pace of competitive entry into local markets to determine the need for LNP implementation.

¹¹ See *FNPRM* at ¶ 7.

¹² Joint Managers Statement, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 121 (1996) (Joint Explanatory Statement).

II. THE COMMISSION SHOULD CONTINUE TO PROVIDE AN EXEMPTION FROM TBNP IMPLEMENTATION FOR RURAL CARRIERS THAT HAVE NOT YET RECEIVED A BONA FIDE REQUEST TO IMPLEMENT LNP.

The Commission also seeks comment on whether the thousands-block number pooling (TBNP) requirement should be expanded to all carriers without regard to whether they are required to provide number portability.¹³ The Commission's rules currently provide that "all carriers capable of providing local number portability (LNP) must participate in thousands-block number pooling where it is implemented and consistent with the national thousands-block number pooling framework established by the Commission."¹⁴ The Commission also asks whether certain small carriers should be exempt from the TBNP requirements.¹⁵

Both LNP and TBNP are based on local routing number (LRN) network architecture. While LNP is intended to stimulate competition by allowing customers to change local carriers without changing telephone numbers, TBNP alleviates numbering shortages by allowing code sharing among carriers. Although a carrier could implement TBNP without fully implementing LNP, both capabilities require the same underlying switch functionality and associated switch upgrade expenditure. Carriers that cannot support TBNP or LNP in their existing software release must incur significant cost to make the necessary upgrades. Although the Commission seeks to maximize the effectiveness of number optimization measures such as TBNP by maximizing participation, it should ensure that the benefits justify the costs. Were rural ILECs required to participate in

¹³ See *FNPRM* at ¶ 9.

¹⁴ See 47 C.F.R. § 52.20(b).

¹⁵ See *FNPRM* at ¶ 9.

TBNP without the presence of competition in their service areas, they would not be able to donate numbering resources to the pool outside of their rate centers. For this reason, the Commission should provide an exemption from TBNP implementation for rural carriers that have not yet received a bona fide request to implement LNP.

III. CONCLUSION

The Commission should continue to limit LNP implementation in the 100 largest MSAs to switches for which a competing carrier has made a request for number portability. The Commission should also not require TBNP implementation in switches that are not LNP capable. Requiring rural carriers to implement either LNP or TBNP without the presence of competition in their service areas would not benefit either competition or number resource optimization and would serve no purpose other than to require rural carriers to expend funds needlessly.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Comments was served this 6th day of May 2002, by electronic delivery and by first-class mail to the persons listed below.

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